

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

JORGE GOMEZ,

Petitioner,

v.

ANDREW CIOLLI, Warden, U.S.P.  
Atwater,

Respondent.

No. 1:21-cv-00207-AWI-JLT (HC)

**ORDER ADOPTING FINDINGS AND  
RECOMMENDATIONS (Doc. No. 6)**

**ORDER GRANTING PETITIONER'S  
MOTION TO WITHDRAW PETITION  
(Doc. No. 5)**

**ORDER DISMISSING PETITION FOR  
WRIT OF HABEAS CORPUS**

**ORDER DIRECTING CLERK OF COURT  
TO ENTER JUDGMENT AND CLOSE  
CASE**

**NO CERTIFICATE OF APPEALABILITY  
IS REQUIRED**

Petitioner is a federal prisoner proceeding in propria persona with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241. On April 5, 2021, the Magistrate Judge assigned to the case issued Findings and Recommendations to dismiss the petition. (Doc. No. 6.) This Findings and Recommendations were served upon all parties and contained notice that any objections were to be filed within ten days from the date of service of that order. To date, no party has filed objections.

In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), the Court has conducted a

1 de novo review of the case. Having carefully reviewed the entire file, the Court concludes that  
2 the Magistrate Judge's Findings and Recommendations are supported by the record and proper  
3 analysis.

4 The plain language of 28 U.S.C. § 2253(c)(1) does not require a certificate of  
5 appealability because this is an appeal from an order denying a petition for writ of habeas corpus  
6 pursuant to 28 U.S.C. § 2241, not a final order in a habeas proceeding in which the detention  
7 complained of arises out of process issued by a State court. *Forde v. U.S. Parole Commission*,  
8 114 F.3d 878 (9th Cir. 1997); *see Ojo v. INS*, 106 F.3d 680, 681-682 (5th Cir. 1997); *Bradshaw v.*  
9 *Story*, 86 F.3d 164, 166 (10th Cir. 1996).

10 Accordingly, the Court orders as follows:

- 11 1. The Findings and Recommendations, filed April 5, 2021 (Doc. No. 6), are  
12 ADOPTED IN FULL;
- 13 2. The petition for writ of habeas corpus is DISMISSED;
- 14 3. The Clerk of Court is DIRECTED to ENTER JUDGMENT and close the file; and,
- 15 4. No certificate of appealability is required.

16 This order terminates the action in its entirety.

17 IT IS SO ORDERED.

18 Dated: April 20, 2021

19   
20 SENIOR DISTRICT JUDGE  
21  
22  
23  
24  
25  
26  
27  
28